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 17 Hernandez; Juan De La Cruz; Natalie Leonard; Donna Hershkowitz; Elizabeth
 18 Hom; Jay Frykberg; Gina Crawford; Larry Kaplan; Hon. James Herman; Paul
 19 Kramer; Caroline Holmes; Imelda Santiago; Nathalie Hope; Steve Mazer; Yun
 20 Xiang; Joan Randolph; Jean Krasilnikoff; Enrique Zuniga; Robert Brody; George
 21 Cardona; Melanie Lawrence; Anthony Garcia; Shataka Shores-Brooks; Eli
 22 Morgenstern; Ruben Duran; Brandon Stallings; Mark Broughton; Hailyn Chen;
 23 Jose Cisneros; Gregory Knoll; Melanie Shelby; Arnold Sowell, Jr.; Mark Toney;
 24 Amy Nunez; Audrey Ching; Lisa Cummins; Tammy Campbell; Kim Wong; Devan
 25 McFarland

19 UNITED STATES DISTRICT COURT

20 CENTRAL DISTRICT OF CALIFORNIA

21 TODD R. G. HILL ("Hill" or Plaintiff),
 22 individually, and as attorney-in-fact
 23 *guardian ad litem* to ROES 1-888,

24 Plaintiff,

25 v.

26 THE BOARD OF DIRECTORS,
 27 OFFICERS AND AGENTS AND
 28 INDIVIDUALS OF THE PEOPLES
 COLLEGE OF LAW, et al.,

Case No. 2:23-cv-01298-JLS(BFM)

**STATE BAR DEFENDANTS'
 NOTICE OF MOTION AND
 MOTION TO DISMISS SECOND
 AMENDED COMPLAINT;
 MEMORANDUM OF POINTS AND
 AUTHORITIES IN SUPPORT
 THEREOF**

DATE: JANUARY 2, 2024

TIME: 10:00 a.m.

Defendants.

DEPT: 780, 7th Floor
JUDGE: BRIANNA FULLER MIRCHEFF

NOTICE OF MOTION AND MOTION TO DISMISS

TO: PLAINTIFF, IN PRO PER, AND ALL PARTIES:

PLEASE TAKE NOTICE THAT ON January 2, 2024, at 10:00 a.m., in the Courtroom of the Honorable Brianna Fuller Mircheff, Courtroom 780, 7th Floor, Roybal Federal Building and United States Courthouse, 255 E. Temple Street, Los Angeles, CA, 90012, counsel for Defendants State Bar of California; The Office of Chief Trial Counsel of the State Bar of California; The Board of Trustees of the State Bar of California; The Office of Admissions of the State Bar of California; Leah Wilson; Suzanne Grandt; Vanessa Holton; Ellin Davtyan; Louisa Ayrapetyan; Alfredo Hernandez; Juan De La Cruz; Natalie Leonard; Donna Hershkowitz; Elizabeth Hom; Jay Frykberg; Gina Crawford; Larry Kaplan; Hon. James Herman; Paul Kramer; Caroline Holmes; Imelda Santiago; Nathalie Hope; Steve Mazer; Yun Xiang; Joan Randolph; Jean Krasilnikoff; Enrique Zuniga; Robert Brody; George Cardona; Melanie Lawrence; Anthony Garcia; Shataka Shores-Brooks; Eli Morgenstern; Ruben Duran; Brandon Stallings; Mark Broughton; Hailyn Chen; Jose Cisneros; Gregory Knoll; Melanie Shelby; Arnold Sowell, Jr.; Mark Toney; Amy Nunez; Audrey Ching; Lisa Cummins; Tammy Campbell; Kim Wong; and Devan McFarland (“State Bar Defendants”) will and hereby do move the Court for an Order under Federal Rules of Civil Procedure 8, 12(b)(1), and 12(b)(6) to dismiss Plaintiff’s Second Amended Complaint (SAC) as to all claims against State Bar Defendants.

The Motion is brought on the following grounds:

The SAC should be dismissed for failure to comply with Federal Rule of Civil Procedure 8.

The SAC and each and every one of its claims against State Bar Defendants should be dismissed under Federal Rule of Civil Procedure 12(b)(1) because the SAC is jurisdictionally barred.

1 (1) The Eleventh Amendment of the United States Constitution bars
 2 Plaintiff's claims against the State Bar as well as State Bar employees and official
 3 sued in their official capacities. *See Hirsh v. Justices of Supreme Court of Cal.*, 67
 4 F.3d 708, 712 (9th Cir. 1995) (citing *Middlesex County Ethics Comm. v. Garden*
 5 *State Bar Ass'n*, 457 U.S. 423, 432 (1982)); *MacKay v. Nesbett*, 412 F.2d 846 (9th
 6 Cir. 1969).

7 (2) Certain State Bar Defendants are entitled to quasi-judicial immunity.
 8 *Levanti v. Tippen*, 585 F. Supp. 499, 504 (S.D. Cal. 1984); *Clark v. Wash.*, 366
 9 F.2d 678, 681 (9th Cir. 1966).

10 (3) State Bar Defendants who are employees of the State Bar are entitled to
 11 qualified immunity. *Jeffers v. Gomez*, 267 F.3d 895, 910 (9th Cir. 2001)

12 The SAC should be dismissed under Federal Rule of Civil Procedure
 13 12(b)(6) because Plaintiff fails to state any tangible claim for relief against any
 14 State Bar Defendant:

15 (1) Plaintiff purports to bring claims against State Bar Defendants Mark
 16 Broughton, Gina Crawford, Juan De La Cruz, Jay Frykberg, Larry Kaplan, Joan
 17 Randolph, Imelda Santiago, and Robert Brody but they are not identified as a
 18 defendant as to any cause of action, nor is the State Bar. Additionally, the Office of
 19 Chief Trial Counsel, the Board of Trustees of the State Bar of California, the
 20 Office of Admissions of the State Bar of California, and the Office of General
 21 Counsel, despite being listed in the caption, are not named as defendants in any
 22 cause of action do not have the capacity to be sued. Fed. R. Civ. P. 17.

23 (2) Plaintiff fails to state sufficient facts to support any claim, under federal
 24 or state law, against any State Bar Defendant. *Bell Atl. Corp. v. Twombly*, 550 U.S.
 25 544, 562 (2007).

(3) Plaintiff fails to plead compliance with the California Government Claims Act which bars his claims for tort damages. *See State of Cal. v. Superior Court (Bodde)*, 32 Cal. 4th 1234, 1239 (2004).

This motion is based on this Notice of Motion and Motion, the accompanying Memorandum of Points and Authorities and records incorporated therein, all pleadings and papers on file in this action and any related actions, and oral argument as may be presented to the Court.

Compliance with Local Rule 7-3:

This motion is made following a conference of the parties pursuant to L.R. 7-3 which took place on November 2 and November 20, 2023 and numerous exchanged emails. Over more than two hours of telephone meet and confer discussions, the parties were unable to reach agreement regarding this Motion.

Dated: December 4, 2023

Respectfully submitted,

ELLIN DAVTYAN

General Counsel

ROBERT G. RETANA

Deputy General Counsel

OFFICE OF GENERAL COUNSEL

THE STATE BAR OF CALIFORNIA

By: /s/ JEAN KRASILNIKOFF

JEAN KRASILNIKOFF

Assistant General Counsel

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Jose Cisneros; Gregory Knoll; Melanie
Shelby; Arnold Sowell, Jr.; Mark Toney;
Amy Nunez; Audrey Ching; Lisa
Cummins; Tammy Campbell; Kim
Wong; Devan McFarland

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	FACTUAL AND PROCEDURAL BACKGROUND	2
A.	The State Bar’s Regulation of Peoples College of Law	2
B.	Plaintiff’s Allegations Against State Bar Defendants	2
III.	LEGAL STANDARDS	3
IV.	ARGUMENT	5
A.	The SAC Should Be Dismissed for Failure to Comply with Federal Rule of Civil Procedure 8	5
B.	State Bar Defendants Are Entitled to Immunity	6
1.	The Eleventh Amendment of the United States Constitution Confers Immunity Upon the State Bar	6
2.	Eleventh Amendment Immunity Applies to State Bar Defendants Sued in Their Official Capacities	8
3.	State Bar Prosecutors Are Entitled to Absolute, Quasi- Judicial Immunity	9
4.	All State Bar Employee Defendants Are Entitled to Qualified Immunity	9
C.	Plaintiff Fails to State Any Claim for Relief	10
1.	Thirteen of the 48 State Bar Defendants Should Be Dismissed Because There Are Either No Claims Asserted Against Them and/or They Lack Capacity to Be Sued.	10
2.	Plaintiff Fails to State a Claim Under 42 U.S.C. § 1983 and Title IX (Twelfth and Thirteenth Causes of Action)	11
3.	Plaintiff Fails to State a Claim for Civil Rights Violations Under 42 U.S.C. § 1981 (Sixth and Seventh Causes of Action)	12
4.	Plaintiff Fails to State a Claim for RICO (Ninth Cause of Action)	12

1	5.	Plaintiff Fails to State a Claim Under 42 U.S.C. § 241, 18	
2		U.S.C. § 242 or § 245 (Fourteenth, Fifteenth, and	
3		Sixteenth Causes of Action).....	15
4	6.	Plaintiffs' State-Law Claims Fail as a Matter of Law	16
5	a)	Each of Plaintiff's State-Law Claims Seeking	
6		Monetary Relief Should Be Dismissed Because	
7		Plaintiff Failed to Allege Compliance with the	
8		Government Claims Act	16
9	b)	Plaintiff Fails to State a Claim for Common Law	
10		Breach of Fiduciary Duty (Second Cause of	
11		Action)	17
12	c)	Plaintiff Fails to State a Claim for Breach of	
13		Fiduciary Duty Related to Violation of Federal and	
14		State Administrative Law and Business Practices	
15		(Third Cause of Action).....	18
16	d)	Plaintiff Does Not State a Claim for Violation of	
17		the Bane Act (Seventh Cause of Action).....	18
18	e)	Plaintiff Fails to State a Claim for Untrue of	
19		Misleading Statements in Violation of Business	
20		and Professions Code section 17500 (Fifth Cause	
21		of Action).....	19
22	f)	Plaintiff Fails to State a Claim for Negligence	
23		(Eighth Cause of Action).....	20
24	g)	Plaintiff Fails to State a Claim for Conspiracy	
25		(Tenth Cause of Action)	21
26	D.	Plaintiff Should Not be Granted Leave to Amend	21
27	V.	CONCLUSION.....	21
28			

TABLE OF AUTHORITIES

Cases

<i>Abou-Hussein v. Gates</i> , 657 F. Supp. 2d 77 (2009)	15
<i>Acri v. Varian Assocs., Inc.</i> , 114 F.3d 999 (9th Cir. 1997)	19
<i>Albert v. State Bar of Cal.</i> , 2015 WL 12683802 (C.D. Cal. Mar. 27, 2015)	8
<i>Allwaste, Inc. v. Hecht</i> , 65 F.3d 1523 (9th Cir. 1995)	13
<i>Amarise v. Related Cos.</i> , 2020 WL 8474757 (C.D. Cal. Nov. 24, 2020)	16
<i>American Mfrs. Mut. Ins. Co. v. Sullivan</i> , 526 U.S. 40 (1999).....	11
<i>Applied Equip. Corp. v. Litton Saudi Arabia Ltd.</i> , 7 Cal. 4th 503 (1994)	21
<i>Ashcroft v. Iqbal</i> , 556 U.S. 662 (2009)	4
<i>Ashelman v. Pope</i> , 793 F.2d 1072 (9th Cir. 1986)	9
<i>Balistereri v. Pacifica Police Dep't</i> , 901 F.2d 696 (9th Cir. 1988)	4
<i>Bell Atl. Corp. v. Twombly</i> , 550 U.S. 544 (2007)	4, 5
<i>Brown v. County. of Solano</i> , 2022 WL 493080 (E.D. Cal. Feb. 17, 2022)	10
<i>Brumbaugh v. Comerica Bank</i> , 2008 WL 11337490 (S.D. Cal. Feb. 27, 2008)	10
<i>Cafasso v. Gen. Dynamics C4 Sys.</i> , 637 F.3d 1047 (9th Cir. 2011)	5
<i>Chin v. Advanced Fresh Concepts Franch. Corp.</i> , 194 Cal. App. 4th 704 (2011)	19
<i>City of Hope Nat'l Med. Ctr. v. Genentech, Inc.</i> , 43 Cal. 4th 375 (2008)	17

1	<i>Clark v. Wash.</i> , 366 F.2d 678 (9th Cir. 1966)	9
2	<i>Clegg v. Cult Awareness Network</i> , 18 F.3d 752 (9th Cir. 1994)	5
3		
4	<i>Cooley v. Keisling</i> , 45 F. Supp. 2d 818 (D. Or. 1999)	15
5	<i>Curry v. Yelp Inc.</i> , 875 F.3d 1219 (9th Cir. 2017)	5
6		
7	<i>DiCampli-Mintz v. County of Santa Clara</i> , 55 Cal. 4th 983 (2012)	17
8	<i>Domino's Pizza, Inc. v. McDonald</i> , 546 U.S. 470 (2006)	12
9		
10	<i>Dougherty v. City of Covina</i> , 654 F.3d 892 (9th Cir. 2011)	5
11	<i>Edelman v. Jordan</i> , 415 U.S. 651 (1974)	7
12		
13	<i>Edwards v. Marin Park, Inc.</i> , 356 F.3d 1058 (9th Cir. 2004)	15
14	<i>Garcia v. Superior Court</i> , 50 Cal. 3d 728 (1990)	11
15		
16	<i>Ghazali v. Moran</i> , 46 F.3d 52 (9th Cir. 1995)	5
17	<i>Grimmett v. Brown</i> , 75 F.3d 506 (9th Cir. 1996)	12
18		
19	<i>Hacala v. Bird Rides, Inc.</i> , 90 Cal. App. 5th 292 (2023)	20
20	<i>Harlow v. Fitzgerald</i> , 457 U.S. 800 (1982)	9
21		
22	<i>Hearns v. San Bernadino Police Dep't</i> , 530 F.3d 1124 (9th Cir. 2008)	5
23	<i>Hirsh v. Justices of Supreme Court of Cal.</i> , 67 F.3d 708 (9th Cir. 1995)	7, 8, 9
24		
25	<i>In re Outlaw Lab., LLP</i> , 463 F. Supp. 3d 1068 (S.D. Cal. 2020)	19
26	<i>In re Rose</i> , 22 Cal. 4th 430 (2000)	2, 7
27		
28		

1	<i>Inland Empire Health Plan v. Superior Court</i> ,	
	108 Cal. App. 4th 588 (2003)	20
2	<i>Janis v. Cal. State Lottery Com.</i> ,	
3	68 Cal. App. 4th 824 (1998)	19
4	<i>Jeffers v. Gomez</i> ,	
	267 F.3d 895 (9th Cir. 2001)	9
5	<i>Johnson v. Riverside Healthcare Sys., LP</i> ,	
6	534 F.3d 1116 (9th Cir. 2008)	4, 6
7	<i>Kearns v. Ford Motor Co.</i> ,	
	567 F.3d 1120 (9th Cir. 2009)	15
8	<i>Knox v. Dean</i> ,	
9	205 Cal. App. 4th 417 (2012)	17
10	<i>Kohn v. State Bar</i> ,	
	497 F. Supp. 3d 526 (N.D. Cal. 2020)	7
11	<i>Kohn v. State Bar</i> ,	
12	No. 20-17316 (9th Cir.)	7
13	<i>Kokkonen v. Guardian Life Ins. Co. of Am.</i> ,	
	511 U.S. 375 (1994)	4
14	<i>Lancaster Cmty. Hosp. v. Antelope Valley Hosp. Dist.</i> ,	
15	940 F.2d 397 (9th Cir. 1991)	13
16	<i>Levanti v. Tippen</i> ,	
	585 F. Supp. 499 (S.D. Cal. 1984)	9
17	<i>Lima v. U.S. Dept. of Educ.</i> ,	
18	947 F.3d 1122 (9th Cir. 2020)	16
19	<i>Living Designs, Inc. v. E.I. Dupont de Nemours and Co.</i> ,	
	431 F.3d 353 (9th Cir. 2005)	12
20	<i>Lupert v. Cal. State Bar</i> ,	
21	761 F.2d 1325 (9th Cir. 1985)	7
22	<i>MacKay v. Nesbett</i> ,	
	412 F.2d 846 (9th Cir. 1969)	7
23	<i>Marzec v. Public Employees' Ret. Sys.</i> ,	
24	236 Cal. App. 4th 889 (2015)	17
25	<i>McHenry v. Renne</i> ,	
	84 F.3d 1172 (9th Cir. 1996)	5
26	<i>Mireles v. Waco</i> ,	
27	502 U.S. 9 (1991)	9
28		

1	<i>Missouri v. Fiske</i> ,	
	290 U.S. 18 (1933).....	7
2	<i>Mitchell v. Washington</i> ,	
3	818 F.3d 436 (9th Cir. 2016)	8
4	<i>Nevijel v. N. Coast Life Ins. Co.</i> ,	
	651 F.2d 671 (9th Cir. 1981)	6
5	<i>Odom v. Microsoft Corp.</i> ,	
6	486 F.3d 541 (9th Cir. 2007)	13
7	<i>Pennhurst State Sch. & Hosp. v. Halderman</i> ,	
	465 U.S. 89 (1984).....	7
8	<i>Prakashpalan v. Engstrom, Lipscomb and Lack</i> ,	
9	223 Cal. App. 4th 1105 (2014)	21
10	<i>Putman v. State Bar of Cal.</i> ,	
	2010 WL 3070435 (C.D. Cal. 2010)	8
11	<i>Quansah v. IBM Corp.</i> ,	
12	1994 U.S. Dist. LEXIS 19499 (N.D. Cal. Sep. 27, 1994)	10, 11
13	<i>Reddy v. Litton Indus.</i> ,	
	912 F.2d 291 (9th Cir. 1990)	12
14	<i>Reynolds v. County Of San Diego</i> ,	
15	84 F.3d 1162 (9th Cir. 1996)	19
16	<i>Rockefeller v. U.S. Court of Appeals Office, for Tenth Circuit Judges</i> ,	
	248 F. Supp. 2d 17 (D.C. Cir. 2003)	15
17	<i>Rosenthal v. Vogt</i> ,	
18	229 Cal. App. 3d 69 (1991)	14
19	<i>Sato v. Orange County Dep't of Educ.</i> ,	
	861 F.3d 923 (9th Cir. 2017)	6
20	<i>Savage v. Council on American-Islamic Relations, Inc.</i> ,	
21	2008 WL 2951281 (N.D. Cal. July 25, 2008)	15
22	<i>Savage v. Glendale Union High Sch. Dist. No. 205</i> ,	
	343 F.3d 1036 (9th Cir. 2003)	4
23	<i>Scott v. Breeland</i> ,	
24	792 F.2d 925 (9th Cir. 1986)	4
25	<i>Starr v. Baca</i> ,	
	652 F.3d 1202 (9th Cir. 2011)	4
26	<i>State of Cal. v. Superior Court (Bodde)</i> ,	
27	32 Cal. 4th 1234 (2004)	16
28		

1	<i>Stock W., Inc. v. Confederated Tribes of Colville Reservation</i> , 873 F.2d 1221 (9th Cir. 1989)	4
2	<i>Vasilenko v. Grace Family Church</i> , 3 Cal. 5th 1077 (2017)	20
3		
4	<i>Will v. Mich. Dep't. of State Police</i> , 491 U.S. 58 (1989)	7, 8
5	<i>Willis v. City of Carlsbad</i> , 48 Cal. App. 5th 1104 (2020)	16
6		

Statutes

7		
8	18 U.S.C. § 1964	12
9	18 U.S.C. § 242	15
10	18 U.S.C. § 245	15
11	18 U.S.C. § 1962	12, 13
12	18 U.S.C. § 1961	13
13	28 U.S.C. § 1367	16
14	42 U.S.C. § 1981	12
15	42 U.S.C. § 1983	11
16	5 U.S.C. § 551	18
17	Bus. & Prof. Code § 6001	2, 7, 18
18	Bus. & Prof. Code § 6001.1	17
19	Bus. & Prof. Code § 6060	2
20	Bus. & Prof. Code § 6060.7	2
21	Bus. & Prof. Code § 6064	2
22	Civ. Code § 52.1	18
23	Gov't Code § 810.2	20
24	Gov't Code § 815	18
25	Gov't Code § 818.2	20
26	Gov't Code § 818.4	20
27	Gov't Code § 821	20
28		

Gov’t Code § 821.2	20
Gov’t Code § 911.2	16
Gov’t Code § 915	16, 17
Gov’t Code § 945.4	16

Rules

Fed. R. Civ. P. 12	4, 6, 12
Fed. R. Civ. P. 17	10
Fed. R. Civ. P. 8	passim
Fed. R. Civ. P. 9	14, 19

Constitutional Provisions

Cal. Const., art. VI, § 9	2, 7
U.S. Const. amend XI	6

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Much like Plaintiff's initial and First Amended Complaint, both of which this Court *sua sponte* dismissed with leave to amend for failure to comply with Federal Rule of Procedure 8 (Dkt. 37, 45), the SAC continues to make wide-reaching, speculative, and conclusory allegations of wrongdoing by various, often unspecified, defendants, including State Bar Defendants.¹ To the extent State Bar Defendants can understand it, Plaintiff brings twelve claims against nearly 50 State Bar officials and departments relating to his dissatisfaction with the State Bar's regulation of his law school. At bottom, despite Plaintiff having already amended *twice*, Plaintiff's SAC remains utterly incomprehensible and disjointed and it has no legal merit.

First, the SAC should be dismissed for failure to comply with Rule 8. Although Plaintiff is given latitude proceeding pro per, he is still obligated to comply with the pleading requirements of Rule 8. Plaintiff's prolix 121–page, 589–paragraph SAC with 69 pages of exhibits lacks the requisite short plain statement demonstrating his entitlement to relief, let alone sufficient allegations that provide fair notice to State Bar Defendants of their alleged wrongdoing. In fact, there are no causes of action brought against thirteen of State Bar Defendants, despite their names being listed in the caption.

Second, the SAC and each claim against State Bar Defendants should be dismissed for lack of subject matter jurisdiction. The Eleventh Amendment of the United States Constitution bars Plaintiff's claims against the State Bar as well as State Bar employees and official sued in their official capacities.

Third, under Federal Rule of Civil Procedure 12(b)(6), Plaintiff fails to state any tangible claim for relief against any State Bar Defendant.

¹ State Bar Defendants are the defendants set forth in the signature block.

1 Despite the liberal rules of amendment, Plaintiff has demonstrated his
 2 allegations are entirely baseless and this Court should not permit further
 3 amendment. State Bar Defendants' motion should be granted with prejudice.

4 **II. FACTUAL AND PROCEDURAL BACKGROUND**

5 **A. The State Bar's Regulation of Peoples College of Law**

6 The State Bar is a public corporation established by the California State
 7 Constitution; it operates as an administrative arm of the California Supreme Court
 8 in attorney licensing, discipline, and regulation. Cal. Const., art. VI, § 9; Bus. &
 9 Prof. Code § 6001; *In re Rose*, 22 Cal. 4th 430, 438 (2000). The Committee of Bar
 10 Examiners ("CBE"), a committee of the State Bar, administers the bar examination
 11 and certifies applicants who have fulfilled the admission requirements to the
 12 Supreme Court. Bus. & Prof. Code §§ 6060, 6064. The CBE is also charged with
 13 the approval, regulation, and oversight of law schools in California. Bus. & Prof.
 14 Code §§ 6060(h)(2), 6060.7. The CBE regulates California Unaccredited Law
 15 Schools, including Peoples College of the Law ("PCL"), the school Plaintiff
 16 attended.

17 **B. Plaintiff's Allegations Against State Bar Defendants**

18 Plaintiff Todd Hill attended PCL, an unaccredited law school, which is
 19 registered with and regulated by the CBE. *See, e.g.*, SAC ¶ 74, 277.

20 On February 20, 2023, Plaintiff filed his 410-page initial complaint, which
 21 failed to include numbered paragraphs and attached over 780 pages of exhibits.
 22 Dkt. 1. On April 5, the Court, *sua sponte*, dismissed the complaint with leave to
 23 amend on Rule 8 grounds. The Court explained the deficiencies in detail. Dkt. 37.

24 On April 18, 2023, Plaintiff filed a 75-page First Amended Complaint
 25 ("FAC"). Dkt. 38. Plaintiff then sought leave to supplement the FAC on May 5,
 26 2023. Dkt. 40. On June 7, 2023, the Court denied Plaintiff's motion to supplement
 27 his FAC and dismissed his FAC for failure to comply with Rule 8. Dkt 45. Again,
 28

1 the Court set forth in detail the deficiencies with the FAC including, *inter alia*, that
 2 the 75–page FAC was “extremely long and prolix”; that the FAC was “rambling,
 3 replete with statements of dubious significance, and very difficult to follow”; the
 4 “FAC frequently lumps all Defendants together, so it is impossible to discern what
 5 each Defendant allegedly did wrong”; the FAC “exhibits the landmarks of
 6 ‘shotgun pleading’”; and did not contain sufficient factual allegations. Dkt. 45 at
 7 pp. 3, 8, 9. Plaintiff failed to amend his complaint in the time provided and the
 8 Court entered judgment against him on July 27, 2023. Dkt. 47. On September 19,
 9 2023, the Court ordered relief from judgment and permitted Plaintiff to file an
 10 amended complaint. Dkt. 54. He filed the 190–page Second Amended Complaint
 11 (“SAC”), including exhibits, the following day. Dkt. 55.

12 The SAC purports to set forth sixteen causes of action, twelve of which are
 13 brought against some of the 48 State Bar Defendants identified in the caption or
 14 the body of the complaint, including departments within the State Bar and officials
 15 that have no apparent relation to Plaintiff’s claims.² After several failed attempts
 16 (*see, e.g.*, Dkt. 29, 32), on September 20, 2023, Plaintiff caused a summons to be
 17 issued as to State Bar Defendants. Dkt. 56.

18 Generally, and as best as State Bar Defendants can tell, Plaintiff alleges that
 19 State Bar Defendants have conspired in unlawful activities, “anticompetitive
 20 activity,” and a fraudulent scheme with PCL to deprive him of a law degree.

21 **III. LEGAL STANDARDS**

22 To comply with Rule 8, a pleading must contain a short and plain statement
 23 showing that the pleader is entitled to relief. Fed. R. Civ. P. 8(a)(2). Each
 24

25 ² To the extent State Bar Defendants understand the SAC, Plaintiff purports to
 26 bring the second, third, fifth, seventh, eighth, ninth, tenth, twelfth, thirteenth,
 27 fourteenth, fifteenth, and sixteenth causes of action against various State Bar
 28 Defendants. Three Defendants (Cummins, Knoll, and Campbell) do not appear in
 the caption, but appear in the body of the SAC.

1 allegation must be “simple, concise, and direct” *Id.* 8(d)(1). The purpose of this
 2 requirement is to ““give the defendant fair notice of what the ... claim is and the
 3 grounds upon which it rests.”” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 562
 4 (2007) (citation omitted). Violation of Rule 8 is a basis for dismissal independent
 5 from Rule 12(b)(6). *Starr v. Baca*, 652 F.3d 1202 (9th Cir. 2011).

6 A motion to dismiss under Federal Rule of Civil Procedure 12(b)(1) tests the
 7 subject matter jurisdiction of the Court. *See Savage v. Glendale Union High Sch.*
 8 *Dist. No. 205*, 343 F.3d 1036, 1039–40 (9th Cir. 2003). “Federal courts are of
 9 limited jurisdiction.” *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375,
 10 377 (1994) “They possess only that power authorized by the Constitution or a
 11 statute, which is not to be expanded by judicial decree.” *Id.* “A federal court is
 12 presumed to lack jurisdiction in a particular case unless the contrary affirmatively
 13 appears.” *Stock W., Inc. v. Confederated Tribes of Colville Reservation*, 873 F.2d
 14 1221, 1225 (9th Cir. 1989). Accordingly, the court will presume lack of subject
 15 matter jurisdiction until the plaintiff proves otherwise in response to a Rule
 16 12(b)(1) motion to dismiss. *See Kokkonen*, 511 U.S. at 376–78; *see Scott v.*
 17 *Breeland*, 792 F.2d 925, 927 (9th Cir. 1986).

18 Rule 12(b)(6) authorizes dismissal of a pleading for “failure to state a claim
 19 upon which relief can be granted.” “A Rule 12(b)(6) dismissal may be based on
 20 either a ‘lack of cognizable legal theory’ or ‘the absence of sufficient facts alleged
 21 under a cognizable legal theory.’” *Johnson v. Riverside Healthcare Sys., LP*, 534
 22 F.3d 1116, 1121 (9th Cir. 2008) (citation omitted). To survive a motion to dismiss,
 23 a plaintiff must allege “enough facts to state a claim to relief that is plausible on its
 24 face[.]” *Twombly*, 550 U.S. at 570. A plaintiff must thus allege facts that consist
 25 of “more than a sheer possibility that a defendant has acted unlawfully.” *Ashcroft*
 26 *v. Iqbal*, 556 U.S. 662, 678 (2009). The allegations must contain “more than labels
 27 and conclusions, and a formulaic recitation of the elements of a cause of action will
 28

not do.” *Twombly*, 550 U.S. at 555. Instead, a plaintiff must allege facts sufficient to “raise a right to relief above the speculative level.” *Id.* While a court must accept the allegations of the complaint as true and construe the pleading in the light most favorable to the plaintiff, the “court is not required to accept legal conclusions cast in the form of factual allegations if those conclusions cannot reasonably be drawn from the facts alleged.” *Clegg v. Cult Awareness Network*, 18 F.3d 752, 754–55 (9th Cir. 1994).

When amendment of a complaint would be futile, as it would be here, it is appropriate for the district court to dismiss the complaint with prejudice. *See, e.g., Curry v. Yelp Inc.*, 875 F.3d 1219, 1228 (9th Cir. 2017).

IV. ARGUMENT

A. The SAC Should Be Dismissed for Failure to Comply with Federal Rule of Civil Procedure 8

Dismissal under Rule 8 is appropriate when the complaint is “so verbose, confused and redundant that its true substance, if any, is well disguised.” *Hearns v. San Bernadino Police Dep’t*, 530 F.3d 1124, 1131 (9th Cir. 2008); *see Cafasso v. Gen. Dynamics C4 Sys.*, 637 F.3d 1047, 1059 (9th Cir. 2011) (citing cases upholding Rule 8 dismissals where pleadings were “confusing,” “distracting, ambiguous, and unintelligible,” “highly repetitious,” and comprised of “incomprehensible rambling”). Even with *pro se* status, Plaintiff is still required to submit a pleading that complies with Rule 8. *McHenry v. Renne*, 84 F.3d 1172, 1178–79 (9th Cir. 1996); *see also Ghazali v. Moran*, 46 F.3d 52, 54 (9th Cir. 1995). None of the SAC’s 589 paragraphs exhibit a “short and plain statement showing that [he] is entitled to relief.” Fed. R. Civ. P. 8(a)(2). Just as this Court found with the FAC, the SAC remains “prolix, rambling and excessively long” and “still exhibits the landmarks of ‘shotgun pleading.’” Dkt. 45 at p. 8. There are simply no nonconclusory allegations demonstrating how each of the 48 named State Bar Defendants’ alleged conduct violates the law, much less how Plaintiff

1 was purportedly injured by such conduct. The SAC falls woefully short of the fair-
 2 notice standard delineated by Rule 8 and is far from “simple, concise, and direct.”
 3 Fed. R. Civ. P. 8(d)(1).

4 Much like the FAC, the SAC lumps all Defendants – including 22 co-
 5 defendants who are named along with the 48 State Bar Defendants – together at
 6 various points (*see, e.g.*, SAC ¶¶ 80, 116, 182, 219, 277, 324, 330, 333, 464, 528)
 7 and realleges and reincorporates all prior paragraphs at the beginning of each
 8 claim. (*See, e.g.*, SAC ¶¶ 264, 290, 309, 323, 334, 344, 357, 371, 382, 460, 523,
 9 533, 549, 558, 565, 567). Complaints like the SAC that are “verbose, confusing
 10 and almost entirely conclusory” fail to meet the standards required under Rule 8.
 11 *Nevijel v. N. Coast Life Ins. Co.*, 651 F.2d 671, 674 (9th Cir. 1981).

12 **B. State Bar Defendants Are Entitled to Immunity**

13 Each of Plaintiff’s claims fails because State Bar Defendants are entitled to
 14 sovereign immunity under the Eleventh Amendment or, at the very minimum the
 15 individual State Bar Defendants have quasi-judicial and/or qualified immunity. As
 16 such, State Bar Defendants are entitled to dismissal of the SAC under Rule
 17 12(b)(1) and Rule (12)(b)(6), because the Court lacks subject matter jurisdiction
 18 and Plaintiff cannot allege sufficient facts to state a claim.³

19 **1. The Eleventh Amendment of the United States Constitution** 20 **Confers Immunity Upon the State Bar**

21 Although Plaintiff names the State Bar as a defendant, he fails to state any
 22 claim against the State Bar itself. *See, e.g.*, SAC at p. 53–54, 58–59, 62–63, 67, 69,

23
 24 ³ In the Ninth Circuit, sovereign and sovereign-state immunity are appropriately
 25 analyzed under either Rule 12(b)(1) or 12(b)(6). *See Sato v. Orange County Dep’t*
 26 *of Educ.*, 861 F.3d 923, 927 n. 2 (9th Cir. 2017). Indeed, because a claim against
 27 defendants who are absolutely immune from suit lacks a “cognizable legal theory,”
 28 Plaintiffs’ claims against the State Bar and its officers and employees in their
 official capacities are also subject to dismissal under Rule 12(b)(6). *See Johnson*,
 534 F.3d at 1121. Accordingly, State Bar Defendants move under both statutes.

72, 75, 77, 80, 95, 108, 110, 112, 115, 116–117. The State Bar is a public corporation established by the California State Constitution and operates as an administrative arm of the California Supreme Court. *See* Cal. Const., art. VI, § 9; Bus. & Prof. Code, §§ 6001 et seq.; *In re Rose*, 22 Cal. 4th at 438 (“The State Bar is a constitutional entity ... expressly acknowledged as an integral part of the judicial function.”). Under controlling Ninth Circuit precedent, the State Bar is an arm of the state entitled to Eleventh Amendment immunity. *See, e.g., Hirsh v. Justices of Supreme Court of Cal.*, 67 F.3d 708, 712 (9th Cir. 1995); *Lupert v. Cal. State Bar*, 761 F.2d 1325, 1327 (9th Cir. 1985); *see also MacKay v. Nesbett*, 412 F.2d 846 (9th Cir. 1969).⁴ Plaintiff cannot amend his complaint to state any claim against the State Bar.

It is axiomatic that neither the state nor any of its agencies may be sued in federal court unless either the state consents to waive its sovereign immunity or Congress abrogates it. *See Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 100 (1984). The Eleventh Amendment recognizes a state’s sovereign immunity and has long been construed by the courts to extend to suits brought against a state by its own citizens. *Edelman v. Jordan*, 415 U.S. 651, 662–63 (1974), *overruled on other grounds, Will v. Mich. Dep’t. of State Police*, 491 U.S. 58, 89, 93 (1989). This jurisdictional bar applies regardless of the nature of the relief sought and it extends to state-law claims. *See Pennhurst*, 465 U.S. at 100–01; *Missouri v. Fiske*, 290 U.S. 18, 27 (1933). Therefore, the SAC should be dismissed in its entirety as to the State Bar and amendment would be futile.

⁴ The State Bar’s status as an arm of the state was recently challenged (and affirmed) in *Kohn v. State Bar*, 497 F. Supp. 3d 526 (N.D. Cal. 2020). On September 20, 2023, an en banc panel of the Ninth Circuit heard oral argument on the appeal of that ruling. *See Kohn v. State Bar*, No. 20-17316 (9th Cir.).

2. Eleventh Amendment Immunity Applies to State Bar Defendants Sued in Their Official Capacities

“[A] suit against a state official in his or her official capacity is not a suit against the official but rather is a suit against the official’s office. [citation] As such, it is no different from a suit against the State itself.” *Will*, 491 U.S. at 71. Like the State Bar, the individual State Bar Defendants enjoy Eleventh Amendment immunity from claims brought against them in their official capacities. *Hirsh*, 67 F.3d at 715 (State Bar’s immunity “extends to the individual defendants acting in their official capacities”); *see also, e.g., Putman v. State Bar of Cal.*, 2010 WL 3070435 at *6 (C.D. Cal. 2010). To the extent Plaintiff’s claims are brought against State Bar Defendants, who include current and former State Bar officials, employees, Board members, and CBE members acting in their official capacities, the Eleventh Amendment bars Plaintiff’s claims for damages and other retroactive relief against them.⁵ *See Mitchell v. Washington*, 818 F.3d 436, 442 (9th Cir. 2016). As such, the SAC should be dismissed as to all State Bar Defendants.

⁵ While the SAC fails to make clear whether he is suing State Bar Defendants in their individual capacities, the SAC contains no allegations as to the individual State Bar Defendants’ individual capacities (SAC ¶¶ 29–68) other than in the caption and a vague allegation that Duran is “an active licensee and market participant in the legal services trade.” SAC ¶ 31. The SAC is simply devoid of any allegations regarding how such Defendants could possibly be liable in their individual capacities. Thus, the allegations against them should be viewed as claims against them in their official capacity and such claims should be dismissed on sovereign immunity grounds. *See Albert v. State Bar of Cal.*, 2015 WL 12683802, at *9 (C.D. Cal. Mar. 27, 2015) (dismissing claims against State Bar employees on sovereign immunity grounds where only “plausible reading” of the complaint is that they were being sued in their official capacity). To the extent Plaintiff also attempts to assert claims against State Bar Defendants in their individual capacities, those claims fail as well under Rule 12(b)(6) for the reasons stated in Section IV.C, *infra*.

3. State Bar Prosecutors Are Entitled to Absolute, Quasi-Judicial Immunity

In addition to their Eleventh Amendment immunity, any claims brought against State Bar employees who work as prosecutors in the Office of Chief Trial Counsel have quasi-judicial immunity from monetary damages, which Plaintiff is seeking here. *Levanti v. Tippen*, 585 F. Supp. 499, 504 (S.D. Cal. 1984); *Clark v. Wash.*, 366 F.2d 678, 681 (9th Cir. 1966). Agency prosecuting attorneys, such as Cardona, Garcia, Morgenstern, and Shores-Brooks are entitled to quasi-judicial immunity so long as they perform functions similar to prosecutors in a setting like that of a court. *Hirsh*, 67 F.3d at 715. This immunity is absolute and cannot be overcome by allegations of bad faith, conspiracy, or malice. *Mireles v. Waco*, 502 U.S. 9, 11 (1991); *Ashelman v. Pope*, 793 F.2d 1072, 1078 (9th Cir. 1986).

Here, Cardona, Garcia, Morgenstern, and Shores-Brooks are entitled to absolute immunity from suit for damages. The factual allegations regarding these defendants are sparse but relate to their work as attorneys in the Office of Chief Trial Counsel entitling them to quasi-judicial immunity.

4. All State Bar Employee Defendants Are Entitled to Qualified Immunity

Public officials are entitled to qualified immunity “unless their conduct violates ‘clearly established statutory or constitutional rights of which a reasonable person would have known.’” *Jeffers v. Gomez*, 267 F.3d 895, 910 (9th Cir. 2001) (citation omitted). As described in sections IV.C.1-5, the SAC contains no allegations that any action taken by employees of the State Bar violated any clearly established federal rights. Accordingly, public officials have qualified immunity to such claims.

C. Plaintiff Fails to State Any Claim for Relief

1. Thirteen of the 48 State Bar Defendants Should Be Dismissed Because There Are Either No Claims Asserted Against Them and/or They Lack Capacity to Be Sued.

As a threshold matter, all claims against eight of the 48 State Bar Defendants should be dismissed because they are not identified at all in reference to a cause of action. Although named, Plaintiff fails to identify any claims against: Mark Broughton, Gina Crawford, Juan De La Cruz, Jay Frykberg, Larry Kaplan, Joan Randolph, Imelda Santiago, or Robert Brody.⁶ Additionally, the State Bar is not named in any claim. These nine defendants should therefore be dismissed. *See Brumbaugh v. Comerica Bank*, 2008 WL 11337490, *13 (S.D. Cal. Feb. 27, 2008) (defendants entitled to dismissal where complaint is devoid of any allegations against them).

Additionally, although Plaintiff names the Office of Chief Trial Counsel, the Board of Trustees of the State Bar of California, the Office of Admissions of the State Bar of California, and the Office of General Counsel as defendants, none of those defendants are named in any claim, and significantly, do not have the capacity to be sued. Thus, each of these defendants should also be dismissed.

“Fed. Rule Civ Pro. 17(b) requires that defendants named in any lawsuit possess the legal capacity to be sued.” *Quansah v. IBM Corp.*, 1994 U.S. Dist. LEXIS 19499, at *9 (N.D. Cal. Sep. 27, 1994). Capacity to sue or be sued for a corporation is governed by the laws under which it was organized. Fed. R. Civ. P. 17(b)(2); *see also Brown v. County of Solano*, 2022 WL 493080, at *1 (E.D. Cal. Feb. 17, 2022) (the law of California determines whether Fairfield Family Health Services has capacity to be sued). As set forth in the State Bar Act, only the State

⁶ Although it has not appeared on the docket as of the filing of this motion, Plaintiff advised State Bar Defendants’ counsel that on December 1, 2023 he moved to voluntarily dismiss Defendants Imelda Santiago, Gina Crawford, Melanie Lawrence, and Juan De La Cruz.

Bar—not the Office of Chief Trial Counsel, Board of Trustees, Office of Admissions, or Office of General Counsel—has the capacity to be sue and be sued. Bus. & Prof. Code § 6001. Quite simply, “a named defendant is not a proper party if the defendant is simply ‘part of’ a public entity, and where any claim against defendant would need to be alleged against that public entity.” *Brown*, 2022 WL 493080, at *2 (because Fairfield Family Health Services is part of the Solano County Department of Health and Social Services, it was not a proper defendant and lacked capacity to be sued); *Quansah*, 1994 U.S. Dist. LEXIS 19499, at *9 (because “[d]epartmental components of corporations are generally not deemed legal persons”, “the Employment Department of IBM does not possess the legal capacity to be sued”). As such, the Office of Chief Trial Counsel, the Board of Trustees, the Office of Admissions, and the Office of General Counsel should all be dismissed from this matter with prejudice.

2. Plaintiff Fails to State a Claim Under 42 U.S.C. § 1983 and Title IX (Twelfth and Thirteenth Causes of Action)

To establish a claim for relief under Section 1983, Plaintiff must establish: (1) a deprivation of federal rights; (2) by a person acting under color of state law. *See* 42 U.S.C. § 1983; *American Mfrs. Mut. Ins. Co. v. Sullivan*, 526 U.S. 40, 49–50 (1999). Plaintiff’s twelfth and thirteenth causes of action are alleged against individual State Bar Defendants Leonard, Ching, and Wilson who are all State Bar employees. When a state official is sued in his or her official capacity, that individual is not considered a “person” subject to suit under section 1983. *Garcia v. Superior Court*, 50 Cal. 3d 728, 738–39 (1990). There are no allegations that these individuals performed any actions outside of their official capacity, *see note 5, supra*, and such this claim should be dismissed for this reason alone.

Title IX protects individuals from discrimination based on sex in educational programs or activities that receive federal financial assistance. The SAC makes no allegations of sex discrimination, nor does it include any allegations regarding

educational programs or activities that receive federal financial assistance. As such, the SAC fails to state a claim under section 1983 or Title IX.

3. Plaintiff Fails to State a Claim for Civil Rights Violations Under 42 U.S.C. § 1981 (Sixth and Seventh Causes of Action)

42 U.S.C. § 1981 prohibits race discrimination in the making and enforcing of contracts. The SAC does not allege that State Bar Defendants discriminated against Plaintiff based on his race in making any contract, and therefore the claim should be dismissed pursuant to Rule 12(b)(6). Plaintiff has not identified an impaired contractual relationship under which he has rights, which bars his claim. *See Domino's Pizza, Inc. v. McDonald*, 546 U.S. 470, 476 (2006) (“Any claim brought under § 1981, therefore, must initially identify an impaired ‘contractual relationship.’ § 1981(b), under which the plaintiff has rights.”)

Plaintiff’s sixth claim seeks “federal licensure or exemption” purportedly pursuant to 42 U.S.C. § 1981. This claim is not asserted against any State Bar Defendant but nonetheless should be dismissed for failure to state a claim as none of the named defendants have authority to admit Plaintiff to practice before any federal court.

4. Plaintiff Fails to State a Claim for RICO (Ninth Cause of Action)

In order to state a civil RICO claim, Plaintiff must allege facts showing: ““(1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity (known as ‘predicate acts’) (5) causing injury to plaintiff’s ‘business or property.’” *Living Designs, Inc. v. E.I. Dupont de Nemours and Co.*, 431 F.3d 353, 361 (9th Cir. 2005) (citation omitted); 18 U.S.C. § 1964(c). In order to state a claim for RICO conspiracy, Plaintiff must allege that a person conspired to violate section 1962(c), that he suffered injury by reason of overt acts, and that those overt acts constitute predicate acts under the RICO statute, which were in furtherance of the conspiracy. *See Reddy v. Litton Indus.*, 912 F.2d 291, 295 (9th Cir. 1990); 18

1 U.S.C. § 1962(d). In order to prevail under RICO, the predicate acts alleged “must
2 establish a pattern of criminal activity.” *Allwaste, Inc. v. Hecht*, 65 F.3d 1523,
3 1527 (9th Cir. 1995) (internal quotations omitted). Plaintiff fails to allege a RICO
4 claim against the State Bar and he should not be granted leave to so amend his
5 complaint “because government entities are incapable of forming malicious intent”
6 necessary to allege a RICO claim and such a claim would therefore fail as a matter
7 of law. *Lancaster Cmty. Hosp. v. Antelope Valley Hosp. Dist.*, 940 F.2d 397, 404
8 (9th Cir. 1991).

9 With respect to the individual State Bar Defendants, Plaintiff fails to
10 plausibly allege a RICO enterprise, which is defined to include any individual,
11 partnership, corporation, association, or other legal entity, and any union or group
12 of individuals associated in fact although not a legal entity.” 18 U.S.C. § 1961(4).
13 Plaintiff attempts to allege that there is an associated-in-fact enterprise among
14 PCL, other Defendants, and State Bar Defendants (SAC ¶¶ 4, 28), but he fails to
15 meet the minimum pleading requirements. To establish the existence of such an
16 enterprise, a plaintiff must provide both “evidence of an ongoing organization
17 formal or informal,” and “evidence that the various associates function as a
18 continuing unit.” *Odom v. Microsoft Corp.*, 486 F.3d 541, 552 (9th Cir. 2007) (en
19 banc). At a minimum, Plaintiff must set forth particularized allegations that
20 defendants have a common purpose to engage in fraudulent conduct and work
21 together to achieve that purpose. *Id.*

22 The SAC fails to meet even this minimum requirement. Instead, Plaintiff
23 alleges that non-State Bar Defendants engaged in an “extortion scheme” (SAC
24 ¶ 395) and that other defendants “received emails and text messages to further the
25 various acts or schemes” (SAC ¶ 396). The only factual allegations Plaintiff makes
26 regarding State Bar Defendants cannot establish any violation of RICO. To the
27 extent State Bar Defendants can understand the more than 77 paragraphs
28

specifically included in the RICO claim, Plaintiff alleges State Bar Defendants did not intervene when he was allegedly being harmed by PCL (SAC ¶¶ 402(A)–(F), 442–43), that State Bar Defendants somehow failed to force other law schools to accept him as a student (SAC ¶¶ 434, 448), and that State Bar Defendants failed to properly enforce its antitrust policy (SAC ¶ 441). Plaintiff merely presumes a conspiracy and scheme existed without alleging any facts or evidence of a RICO enterprise. “While RICO is a broad statute, violation of its terms cannot be established by hyperbole or rhetoric.” *Rosenthal v. Vogt*, 229 Cal. App. 3d 69, 78 (1991) (dismissing RICO claim against State Bar and its officials).

Assuming arguendo that Plaintiff properly alleged a RICO enterprise, he must prove that the defendants committed a crime (i.e., “predicate acts”). 18 U.S.C. § 1962(c). Mail fraud (18 U.S.C. § 1341) or wire fraud (18 U.S.C. § 1343) or both may be used as the predicate acts necessary to establish a RICO claim. *See* 18 U.S.C. § 1961(1)(B).

While unclear, it seems Plaintiff alleges that various unspecified communications were mail and wire fraud (*see, e.g.*, SAC ¶¶ 396, 400(B)–(C), (E)). Wire or mail fraud consists of the following elements: (1) formation of a scheme or artifice to defraud; (2) use of the United States mails or wires, or causing such a use, in furtherance of the scheme; and (3) specific intent to deceive or defraud. *Schreiber Distrib. Co. v. Serv-Well Furniture Co.*, 806 F.2d 1393, 1400 (9th Cir. 1986). Federal Rule of Civil Procedure 9(b) provides that “[i]n alleging fraud ..., a party must state with particularity the circumstances constituting fraud,” while “[m]alice, intent, knowledge, and other conditions of a person’s mind may be averred generally.” “Rule 9(b) demands that the circumstances constituting the alleged fraud be specific enough to give defendants notice of the particular misconduct ... so that they can defend against the charge and not just deny that they have done anything wrong.” *Kearns v. Ford Motor Co.*, 567 F.3d 1120, 1124

(9th Cir. 2009). Any averments which do not meet that standard should be “disregarded,” or “stripped” from the claim for failure to satisfy Rule 9(b).” *Id.* Accordingly, “[t]o avoid dismissal for inadequacy under Rule 9(b), [the] complaint would need to state the time, place, and specific content of the false representations as well as the identities of the parties to the misrepresentation.” *Edwards v. Marin Park, Inc.*, 356 F.3d 1058, 1066 (9th Cir. 2004).

Plaintiff fails to allege with any particularity the purported fraud, much less criminal activity, by State Bar Defendants. Plaintiff fails to explain how any State Bar Defendants’ conduct constitutes fraud or criminal activity, and his own characterization of the facts does not give rise to liability. *See Savage v. Council on American-Islamic Relations, Inc.*, 2008 WL 2951281, at *14 (N.D. Cal. July 25, 2008) (RICO claim insufficient where plaintiff set forth a “redundant narrative of allegations and conclusions of law but [made] no attempt to allege what facts are material to his claims under the RICO statute, or what facts are used to support what claims under particular subsections of RICO”).

5. Plaintiff Fails to State a Claim Under 42 U.S.C. § 241, 18 U.S.C. § 242 or § 245 (Fourteenth, Fifteenth, and Sixteenth Causes of Action)

None of the federal criminal statutes Plaintiff purports to rely on in his fourteenth, fifteenth, or sixteenth causes of action create a private right of action upon which he may sue State Bar Defendants. *See Abou-Hussein v. Gates*, 657 F. Supp. 2d 77, 81 (2009) (no private right of action under 18 U.S.C. § 241); *Rockefeller v. U.S. Court of Appeals Office, for Tenth Circuit Judges*, 248 F. Supp. 2d 17, 23 (D.C. Cir. 2003) (no private right of action under 18 U.S.C. § 242); *Cooley v. Keisling*, 45 F. Supp. 2d 818, 820 (D. Or. 1999) (no private right of action under 18 U.S.C. § 245). As such, these claims fail as a matter of law and no amendment can cure the defects.

1 Furthermore, Plaintiff's fifteenth and sixteenth causes of action fail to
2 include any factual allegations whatsoever and may be dismissed on that basis too.

3 **6. Plaintiffs' State-Law Claims Fail as a Matter of Law**

4 Because Plaintiff's federal claims are subject to dismissal and because this
5 Court's subject matter jurisdiction is based only upon federal question jurisdiction
6 (SAC ¶¶ 69–71), this Court should decline to exercise supplemental jurisdiction
7 over Plaintiff's remaining state-law claims. *See* 28 U.S.C. § 1367(c)(3); *Lima v.*
8 *U.S. Dept. of Educ.*, 947 F.3d 1122, 1128 (9th Cir. 2020). In any event, Plaintiffs'
9 state-law claims fail as matter of law.

10 **a) Each of Plaintiff's State-Law Claims Seeking** 11 **Monetary Relief Should Be Dismissed Because** 12 **Plaintiff Failed to Allege Compliance with the** 13 **Government Claims Act**

14 A party seeking to recover monetary damages from a public entity or its
15 employees must submit a claim to the entity before filing suit in court no later than
16 six months after the cause of action accrues. *Amarise v. Related Cos.*, 2020 WL
17 8474757, at *6 (C.D. Cal. Nov. 24, 2020); Gov't Code §§ 911.2(a), 945.4. With
18 respect to Plaintiff's state-law claims against State Bar Defendants, Plaintiff does
19 not allege compliance with the Government Claims Act and therefore, each tort
20 claim is subject to dismissal on that basis. *See, e.g., Willis v. City of Carlsbad*, 48
21 Cal. App. 5th 1104, 1119 (2020) (“[T]he timely filing of a written government
22 claim is an element that a plaintiff is required to prove in order to prevail on his or
23 her cause of action.”); *State of Cal. v. Superior Court (Bodde)*, 32 Cal. 4th 1234,
24 1239 (2004) (“failure to timely present a claim for money or damages to a public
25 entity bars a plaintiff from filing a lawsuit.”). While Plaintiff pleads compliance
26 with respect to the *State of California* (SAC ¶ 22), the State Bar is a public
27 corporation, not the “state,” and Plaintiff was required to comply with the
28 presentation requirements applicable to the State Bar. *Compare* Gov't Code
§ 915(a) (claim presentation requirements for local public entities including public

corporations like the State Bar) *with* § 915(b) (claim presentation requirements for the State). Delivery of a claim to an incorrect recipient does not satisfy the claim presentation requirement. *DiCampli-Mintz v. County of Santa Clara*, 55 Cal. 4th 983, 991–92 (2012)

As such, to the extent his second, third, eighth, and tenth causes of action seek monetary damages, they must be dismissed in their entirety.

b) Plaintiff Fails to State a Claim for Common Law Breach of Fiduciary Duty (Second Cause of Action)

To establish breach of a fiduciary duty, a plaintiff must allege the existence of a fiduciary relationship, its breach, and damage proximately caused by that breach. *See Knox v. Dean*, 205 Cal. App. 4th 417, 432–33 (2012). The SAC fails to allege that Plaintiff had any fiduciary relationship with any State Bar Defendant and as such, the claim fails as a matter of law. *Marzec v. Public Employees’ Ret. Sys.*, 236 Cal. App. 4th 889, 915 (2015) (“Whether a fiduciary duty exists is generally a question of law.”). “Before a person can be charged with a fiduciary obligation, he must either knowingly undertake to act on behalf and for the benefit of another, or must enter into a relationship which imposes that undertaking as a matter of law.’ [citation]” *City of Hope Nat’l Med. Ctr. v. Genentech, Inc.*, 43 Cal. 4th 375, 386 (2008). Nothing in the State Bar’s governing statutes creates a fiduciary duty between the State Bar and students who attend unaccredited law schools.⁷ Nor has Plaintiff alleged any facts that the State Bar “knowingly” undertook obligations of a fiduciary or that the relationship between State Bar Defendants and Plaintiff is the kind of relationship that imposes a fiduciary obligation as a matter of law. State Bar Defendants are unaware of any case

⁷ Plaintiff seemingly believes Business and Professions Code section 6001.1 which makes protection of the public the State Bar’s highest priority in exercising their licensing, regulatory, and disciplinary functions, creates a fiduciary duty. This is simply not so, as the plain language creates a *priority*, not a fiduciary duty or relationship.

1 holding that the State Bar owes students who attend unaccredited law schools any
 2 fiduciary duty in their role as regulator. Furthermore, the Legislative Committee
 3 Comments to Government Code section 815(a) affirms that the “section abolishes
 4 all common law ... forms of liability for public entities, except for such liability as
 5 may be required by the state or federal constitution.”

6 **c) Plaintiff Fails to State a Claim for Breach of**
 7 **Fiduciary Duty Related to Violation of Federal and**
 8 **State Administrative Law and Business Practices**
 9 **(Third Cause of Action)**

10 Plaintiffs’ third claim purports to state a claim for breach of fiduciary duty
 11 relating to the alleged violation of the Federal and California Administrative
 12 Procedures Act (“CAPA”). But the State Bar is not a federal agency and is not
 13 subject to the federal Administrative Procedures Act. *See* 5 U.S.C. § 551 (defining
 14 federal agencies). Likewise, the State Bar is not subject to the CAPA. Bus. & Prof.
 15 Code § 6001 (exempting the State Bar from provisions of the Government Code
 16 including Division 3, which includes CAPA). Because the State Bar (which is not
 17 named as a Defendant as to this or any claim) is not subject to either the federal or
 18 state Administrative Procedure Act, a “violation” of those procedures cannot form
 19 the basis of a claim for breach of fiduciary duty or a violation of the California
 20 unfair business practices law.⁸ Further, Plaintiff cannot establish any fiduciary duty
 21 between him and any State Bar Defendant, as described in section IV.C.6.b *supra*.

22 **d) Plaintiff Does Not State a Claim for Violation of the**
 23 **Bane Act (Seventh Cause of Action)**

24 As part of his seventh claim, Plaintiff includes a reference to the Bane Act,
 25 Civ. Code § 52.1. That Act forbids anyone from interfering by force or by threat of
 26 violence with federal or state constitutional or statutory rights. The Ninth Circuit

27 ⁸ This claim is entirely incomprehensible. Plaintiff claims violations of various
 28 state and federal procedure acts (SAC ¶¶ 310, 316, 317), but fails to allege any
 facts that support a breach of any fiduciary duty.

1 has noted that the Bane Act “does not provide any substantive protections; instead,
 2 it enables individuals to sue for damages as a result of constitutional
 3 violations.” *Reynolds v. County Of San Diego*, 84 F.3d 1162, 1170 (9th Cir.
 4 1996), *overruled on other grounds by Acri v. Varian Assocs., Inc.*, 114 F.3d 999,
 5 1000 (9th Cir. 1997). Thus, liability under the Bane Act requires a showing of an
 6 independent state or federal constitutional violation. *Id.* As discussed throughout
 7 this motion, the SAC fails to allege any *facts*, as opposed to conclusory statements,
 8 supporting claim of interference or any force or threat of violence and as such, the
 9 claim fails as a matter of law.

10 **e) Plaintiff Fails to State a Claim for Untrue of**
 11 **Misleading Statements in Violation of Business and**
 12 **Professions Code section 17500 (Fifth Cause of**
 13 **Action)**

14 Business and Professions Code section 17500 prohibits false advertising,
 15 and it does not apply to claims against public entities, such as the State Bar. *See,*
 16 *e.g., Janis v. Cal. State Lottery Com.*, 68 Cal. App. 4th 824, 831 (1998). Moreover,
 17 claims pursuant to this provision are subject to the heightened pleading
 18 requirements of Federal Rule of Civil Procedure 9. *See In re Outlaw Lab., LLP*,
 19 463 F. Supp. 3d 1068 (S.D. Cal. 2020). The SAC does not meet Rule 8
 20 requirements much less this heightened pleading requirement. For example, the
 21 SAC does not allege with specificity who made false statements, what false
 22 statements were made, or when the misstatements were made. *Id.* at 1085. This
 23 claim thus fails for this reason alone.

24 Additionally, the SAC does not allege that Plaintiff relied on any purported
 25 misrepresentations. Moreover, only injunctive relief and restitution are available
 26 remedies for a section 17500 claim, and Plaintiff improperly seeks general, special,
 27 and punitive damages against two individual State Bar Defendants, Holton and
 28 Davtyan. SAC ¶ 339. *See e.g., Chin v. Advanced Fresh Concepts Franch. Corp.*,
 194 Cal. App. 4th 704, 712, n. 3 (2011).

1 This claim should be dismissed in its entirety.

2 **f) Plaintiff Fails to State a Claim for Negligence (Eighth Cause of Action)**

3 The gravamen of Plaintiff's eighth claim appears to be that individual State
4 Bar employees (Leonard, Ching, Nunez, Wilson, Wong, Shores-Brooks, Lawrence,
5 and Xiang) and members of the State Bar Board of Trustees (Duran, Sowell,
6 Kramer, Chen, and Cisneros) failed to adequately regulate PCL. As described
7 *supra*, this claim is barred entirely by the California Government Claims Act.
8 Furthermore, while this claim purports to be brought against thirteen State Bar
9 Defendants, the claim only contains allegations against State Bar Defendants
10 Kramer and Leonard.⁹

11 Moreover, a claim for negligence against a public entity or its employees or
12 officials is barred by numerous immunities set forth in the California Government
13 Claims Act, including: (1) State Bar Defendants are immune from liability to the
14 extent Plaintiff alleges they failed to adopt or enforce enactments, Gov't Code
15 §§ 818.2, 821; *see also Hacala v. Bird Rides, Inc.*, 90 Cal. App. 5th 292, 305–06
16 (2023) (city immune from claim that it negligently failed to enforce a third party's
17 compliance with rules); and (2) State Bar Defendants are immune from liability to
18 the extent Plaintiff argues that they were negligent in failing to withdraw PCL's
19 registration, Gov't Code §§ 818.4, 821.2, 810.2; *see, e.g., Inland Empire Health*
20 *Plan v. Superior Court*, 108 Cal. App. 4th 588, 594 (2003) (public entity not liable
21 for negligent credentialing).

22 Further, to state a claim for negligence, a plaintiff must demonstrate a legal
23 duty to use due care, a breach of such legal duty, and that the breach is the
24 proximate cause of the resulting injury. *Vasilenko v. Grace Family Church*, 3 Cal.
25 5th 1077, 1083 (2017). Plaintiff offers no legal basis for the duties allegedly owed
26

27 ⁹ While paragraph 378 refers to State Bar Defendants Wilson, Nunez, Hershkowitz,
28 and Krasilnikoff, there are no factual allegations as to these defendants.

1 to him, nor does he allege any cognizable special relationship between himself and
 2 State Bar Defendants that would give rise to any such duty. Given the absolute lack
 3 of factual allegations, this claim should be dismissed in its entirety.

4 **g) Plaintiff Fails to State a Claim for Conspiracy (Tenth Cause of Action)**

5 Conspiracy is not a cause of action; it is a legal doctrine. *Applied Equip.*
 6 *Corp. v. Litton Saudi Arabia Ltd.*, 7 Cal. 4th 503, 510–11 (1994). This claim spans
 7 over 40 paragraphs (SAC ¶¶ 460–522), but is unclear as to what laws were
 8 purportedly violated. To the extent this claim is predicated on purported violations
 9 of law claimed in other causes of action, it is barred for the same reasons. *See*
 10 *Prakashpalan v. Engstrom, Lipscomb and Lack*, 223 Cal. App. 4th 1105, 1135
 11 (2014).

12 **D. Plaintiff Should Not be Granted Leave to Amend**

13 As discussed throughout this motion, Plaintiff should not be granted leave to
 14 amend. The SAC is Plaintiff's third attempt at drafting a coherent complaint and
 15 the SAC continues to suffer from many of the same deficiencies as his original
 16 complaint. Not only is the SAC riddled with prolix ramblings, but State Bar
 17 Defendants are protected by various immunities against all claims alleged against
 18 them. Thus, even if Plaintiff were to draft a concise complaint, he cannot plead
 19 around these immunities, making amendment futile.

20 **V. CONCLUSION**

21 Based on the foregoing, State Bar Defendants respectfully request that this
 22 Court grant this motion to dismiss with prejudice and without leave to amend, as any
 23 amendment of the SAC would be futile.

24
 25
 26 Dated: December 4, 2023

Respectfully submitted,

27 ELLIN DAVTYAN
 28 General Counsel

1 ROBERT G. RETANA
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3 OFFICE OF GENERAL COUNSEL
4 THE STATE BAR OF CALIFORNIA

5 By: /s/ JEAN KRASILNIKOFF
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14 California; Leah Wilson; Suzanne
15 Grandt; Vanessa Holton; Ellin Davtyan;
16 Louisa Ayrapetyan; Alfredo Hernandez;
17 Juan De La Cruz; Natalie Leonard;
18 Donna Hershkowitz; Elizabeth Hom; Jay
19 Frykberg; Gina Crawford; Larry Kaplan;
20 Hon. James Herman; Paul Kramer;
21 Caroline Holmes; Imelda Santiago;
22 Nathalie Hope; Steve Mazer; Yun Xiang;
23 Joan Randolph; Jean Krasilnikoff;
24 Enrique Zuniga; Robert Brody; George
25 Cardona; Melanie Lawrence; Anthony
26 Garcia; Shataka Shores-Brooks; Eli
27 Morgenstern; Ruben Duran; Brandon
28 Stallings; Mark Broughton; Hailyn Chen;
Jose Cisneros; Gregory Knoll; Melanie
Shelby; Arnold Sowell, Jr.; Mark Toney;
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Cummins; Tammy Campbell; Kim
Wong; Devan McFarland

CERTIFICATE OF WORD COUNT

The undersigned, counsel of record for Defendants State Bar of California; The Office of Chief Trial Counsel of the State Bar of California; The Board of Trustees of the State Bar of California; The Office of Admissions of the State Bar of California; Leah Wilson; Suzanne Grandt; Vanessa Holton; Ellin Davtyan; Louisa Ayrapetyan; Alfredo Hernandez; Juan De La Cruz; Natalie Leonard; Donna Hershkowitz; Elizabeth Hom; Jay Frykberg; Gina Crawford; Larry Kaplan; Hon. James Herman; Paul Kramer; Caroline Holmes; Imelda Santiago; Nathalie Hope; Steve Mazer; Yun Xiang; Joan Randolph; Jean Krasilnikoff; Enrique Zuniga; Robert Brody; George Cardona; Melanie Lawrence; Anthony Garcia; Shataka Shores-Brooks; Eli Morgenstern; Ruben Duran; Brandon Stallings; Mark Broughton; Hailyn Chen; Jose Cisneros; Gregory Knoll; Melanie Shelby; Arnold Sowell, Jr.; Mark Toney; Amy Nunez; Audrey Ching; Lisa Cummins; Tammy Campbell; Kim Wong; and Devan McFarland, certifies that this brief contains 6,971 words, which:

X complies with the word limit of L.R. 11-6.1.

Dated: December 4, 2023

Respectfully submitted,

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 18 Natalie Leonard; Donna Hershkowitz; Elizabeth Hom; Jay Frykberg; Gina
 19 Crawford; Larry Kaplan; Hon. James Herman; Paul Kramer; Caroline Holmes;
 20 Imelda Santiago; Nathalie Hope; Steve Mazer; Yun Xiang; Joan Randolph; Jean
 21 Krasilnikoff; Enrique Zuniga; Robert Brody; George Cardona; Melanie Lawrence;
 22 Anthony Garcia; Shataka Shores-Brooks; Eli Morgenstern; Ruben Duran; Brandon
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 24 Shelby; Arnold Sowell, Jr.; Mark Toney; Amy Nunez; Audrey Ching; Lisa
 25 Cummins; Tammy Campbell; Kim Wong; Devan McFarland

18 UNITED STATES DISTRICT COURT

19 CENTRAL DISTRICT OF CALIFORNIA

20 TODD R. G. HILL ("Hill" or Plaintiff),
 21 individually, and as attorney-in-fact
 22 *guardian ad litem* to ROES 1-888,

23 Plaintiff,

24 v.

25 THE BOARD OF DIRECTORS,
 26 OFFICERS AND AGENTS AND
 27 INDIVIDUALS OF THE PEOPLES
 28 COLLEGE OF LAW, et al.,

Defendants.

Case No. 2:23-cv-01298-JLS(BFM)

**[PROPOSED] ORDER GRANTING
 STATE BAR DEFENDANTS'
 MOTION TO DISMISS SECOND
 AMENDED COMPLAINT**

DATE: JANUARY 2, 2024

TIME: 10:00 a.m.

DEPT: 780, 7th Floor

JUDGE: BRIANNA FULLER MIRCHEFF

1 The Motion to Dismiss Plaintiff’s Second Amended Complaint filed by
 2 Defendants State Bar of California, the Office of Chief Trial Counsel of the State
 3 Bar of California, the Board of Trustees of the State Bar of California, Leah
 4 Wilson, Suzanne Grandt, Vanessa Holton, Ellin Davtyan, Louisa Ayrapetyan,
 5 Alfredo Hernandez, Juan De La Cruz, Natalie Leonard, Donna Hershkowitz,
 6 Elizabeth Hom, Jay Frykberg, Gina Crawford, Larry Kaplan, Hon. James Herman,
 7 Paul Kramer, Caroline Holmes, Imelda Santiago, Nathalie Hope, Steve Mazer,
 8 Yun Xiang, Joan Randolph, Jean Krasilnikoff, Enrique Zuniga, Robert Brody,
 9 George Cardona, Melanie Lawrence, Anthony Garcia, Shataka Shores-Brooks, Eli
 10 Morgenstern, Ruben Duran, Brandon Stallings, Mark Broughton, Hailyn Chen,
 11 Jose Cisneros, Gregory Knoll, Melanie Shelby, Arnold Sowell, Jr., Mark Toney,
 12 Amy Nunez, Audrey Ching, Lisa Cummins, Tammy Campbell, Kim Wong, and
 13 Devan McFarland (“State Bar Defendants”) came on regularly for hearing on
 14 January 2, 2024 in the above-titled court. The Honorable Brianna Fuller Mircheff
 15 presiding.

16 Having considered the papers submitted by the parties, and the cause having
 17 been argued and submitted for decision, the Court finds as follows:

18 1. The Second Amended Complaint is dismissed for failure to comply
 19 with Federal Rule of Civil Procedure 8.

20 2. The Court does not have subject matter jurisdiction over the Second
 21 Amended Complaint as to State Bar Defendants as all claims are barred by the
 22 Eleventh Amendment of the United States Constitution. Additionally, all
 23 individual State Bar Defendants are entitled to qualified immunity and Defendants
 24 Cardona, Garcia, Shores-Brooks, and Morgenstern are entitled to quasi-judicial
 25 immunity.

26 3. All claims are dismissed against State Bar Defendants that are not
 27 named in any cause action: Mark Broughton, Gina Crawford, Juan De La Cruz,
 28

1 Jay Frykberg, Larry Kaplan, Joan Randolph, Imelda Santiago, Robert Brody, the
2 State Bar, the Office of Chief Trial Counsel, the Board of Trustees, the Office of
3 Admission, and the Office of General Capacity. All claims against the Office of
4 Chief Trial Counsel, the Board of Trustees, the Office of Admission, and the
5 Office of General Capacity are dismissed for the further reason that they do not
6 have the capacity to be sued.

7 4. Plaintiff fails to state sufficient facts to support any claim, under
8 federal or state law, against any State Bar Defendant.

9 5. Having dismissed all federal law claims, the Court declines to
10 exercise supplemental jurisdiction over Plaintiff's second, third, fifth, eighth, and
11 tenth causes of action.

12 Therefore, IT IS ORDERED THAT State Bar Defendants' Motion to
13 Dismiss the Second Amended Complaint is GRANTED without leave to amend.

14
15 **IT IS SO ORDERED.**

16
17 Dated: _____

18 _____
19 BRIANNA FULLER MIRCHEFF
20 UNITED STATES MAGISTRATE JUDGE
21
22
23
24
25
26
27
28